

U.S.S.N. 09/662,927

Filed: September 15, 2000

AMENDMENT AND RESPONSE TO OFFICE ACTION

Remarks

Claims 1-9, 19, 22, 23, 27, 28 and 30-33 are pending. Claims 1 and 33 have been amended. Support for these amendments can be found on page 8, lines 1-2, page 16, lines 5-12, and page 17, lines 3-14. The present invention is storing, interrogating, sensing, telemetering and responding medical implants.

Rejection Under 35 U.S.C. § 102

Claims 1-9, 19, 22 and 33 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,146,029 to Ellinwood Jr. ("Ellinwood"). Claims 1-9, 19, 22-23 and 30-33 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,248,080 to Miesel, et al. ("Miesel"). Applicants respectfully traverse these rejections to the extent that they are applied to the claims as amended.

Ellinwood, Jr.

Ellinwood discloses a drug delivery device which is responsive to external operator control (col. 3, lines 9-16). Sensing means are attached to, but not part of, the device (col. 7, lines 1-5). Claims 1 and 33 as amended are distinguished from Ellinwood by the inclusion of an actuator in the system, which receives information from the sensors and causes a configurational change in the device *as a result of input from the sensors*. Ellinwood does not disclose a system whereby data goes from sensors through an actuator to cause a change in the device. Therefore Ellinwood does not anticipate the claims.

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Miesel, et al.

Miesel discloses an implantable medical device for measuring intercranial pressure or temperature, which is detected externally, in some cases using telemetric means. There is no direct interaction between the sensors and the device via an actuator as recited by amended claims 1 and 33. Miesel does not disclose a system whereby data goes from sensors through an actuator to cause a change in the device. Therefore Miesel does not anticipate the claimed subject matter.

Rejection Under 35 U.S.C. § 103

Claims 27-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,146,029 to Ellinwood Jr., in view of U.S. Patent No. 5,411,551 to Winston, et al., ("Winston") and further in view of U.S. Patent No. 6,092,530 to Weissman, et al. ("Weissman"). Applicants respectfully traverse this rejection to the extent that it is applied to the claims as amended.

Winston

Winston discloses a stent that includes a sensor for blood glucose. The sensor is located on the inside of the expandable stent wall, which is directly connected to a remote monitoring device. Winston makes no mention of an actuator, or direct interaction of the sensor with the device by means of an actuator.

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Weissman

Weissman discloses an implant device which includes a sensor for detecting accumulation of biological material on the sensor. The sensor is connected to a remote monitoring device. Weissman makes no mention of an actuator, or direct interaction of the sensor with the device by means of an actuator.

Independent claim 1 has been amended to recite that the sensors directly interact with the device via an actuator. While it may be known that fouling affects the measurements of a sensor, the prior art fails to teach a device wherein sensors measure fouling and cause a remedial change in the device by means of an actuator. Neither Ellinwood, Winston nor Weissman, either alone or in combination, disclose or suggest a system whereby data goes from sensors through an actuator to cause a change in the device. Therefore, dependent claims 27 and 28 cannot be anticipated by any of the above references, either alone or in combination.

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Allowance of claims 1-9, 19, 22, 23, 27, 28 and 30-33 is respectfully solicited.

Respectfully submitted,



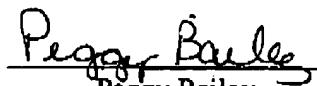
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Certificate of Facsimile Transmission

I hereby certify that this Amendment and Response to Office Action, and any documents referred to as attached therein are being facsimile transmitted on this date, December 4, 2003, to the Commissioner for Patents, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.



Peggy Bailey

Date: December 5, 2003

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